

Remarks

Reconsideration and reexamination of the above-identified patent application, as amended, are respectfully requested. Claims 10-11 are pending in this application upon entry of this Amendment.

Claim Rejections - 35 U.S.C. § 103

In the Office Action mailed December 3, 2004, the Examiner rejected claims 10-11 under 35 U.S.C. § 103(a) as being unpatentable over Applicant's prior art admission regarding identification of excluded persons at page 1-3 of the Specification ("the Specification") in view of U.S. Patent No. 5,679,938 issued to Templeton ("Templeton").

1. Examiner's Characterization of the Specification and Templeton

In rejecting the claims under 35 U.S.C. § 103(a), the Examiner posited that the Specification includes admissions of prior art which disclose the invention substantially as claimed, including a method for cashing a check presented by an individual in a casino, including the steps of:

- a) providing an exclusion list database for casinos (page 2, lines 6-7), wherein the exclusion list database stores a list of individuals to be excluded from cashing checks (page 1, lines 14-20) and at least one checking account identifier for each individual on the exclusion list (page 1, lines 18-25);
- b) receiving a check presented by an individual for cashing (page 2, lines 18-20);
- c) magnetic ink character recognition (MICR) data of the check presented by the individual (page 1, line 23);
- d) identifying a checking account identifier associated with the individual presenting the check (page 2, lines 25-30) based on MICR data of the

presented check (page 1, lines 21-25; which discloses at least two types of identifying information – social security number and MICR data);

e) comparing the checking account identifier associated with the individual presenting the check with the at least one checking account identifier for each individual of the exclusion list to determine whether the individual presenting the check is an individual to be excluded from cashing checks, wherein the individual presenting the check is determined to be an individual excluded from check cashing if the checking account identifier associated with the individual presenting the check matches a checking account identifier in the exclusion list (page 2, line 27 to page 3, line 4).

The Examiner noted that the admissions do not disclose the automated elements whereby a POS device scans MICR data to identify a checking account identifier and transmitting the identifier to a host computer. The Examiner posited that Templeton discloses a POS device scanning MICR data (col. 5, lines 47-52) to identify a checking account identifier (col. 5, lines 47-57) and transmitting the identifier to a host computer (col. 5, lines 47-57; col. 7, lines 42-64) and comparison of MICR data to identification in an approval database (col. 32, lines 44-60). The Examiner posited that it would have been obvious to have modified the manual method for identification of an excluded individual disclosed by the admissions to be performed using the automated elements of Templeton because this would make the process less cumbersome and faster.

## 2. Applicant's Amendment of the Specification

The Applicant has amended the Background Art section of the Specification to remove references that MICR data was included in gambler exclusion lists prior to the Applicant's invention. Specifically, the Applicant has amended page 1, line 23 of the Background Art section of the Specification to remove the reference that information provided by gamblers for inclusion in a gambler exclusion list included MICR data associated with the gamblers. Similarly, the Applicant has amended page 3, line 7 of the Background Art section

of the Specification to accurately recite that the information provided by a gambler (such as social security number - see page 2, lines 27-30 of the Specification) when cashing a check is compared to the information in the exclusion list.

In general, the characterization by the Applicant in the Background Art section of the Specification that MICR data was included in an exclusion list prior to the Applicant's invention was incorrect. As such, the Applicant has amended the Background Art section of the Specification herein to correct this inaccuracy.

As evidence of this inaccuracy, the Applicant notes that the Background Art section of the Specification (page 1, lines 21-25) correctly described (with the exception of MICR data) that information provided by gamblers for inclusion in the exclusion list includes "individual's name, address, Driver's License (state and number), Social Security Number (SSN), . . . personal information such as a recent photo of the individual."

The correct description of the information provided by gamblers for inclusion in the exclusion list comports with teachings of Illinois Gaming Board Regulations ("Illinois Gaming") previously cited by the Examiner. For example, Section 3000.710 "Distribution and Availability of Exclusion Lists" of Illinois Gaming indicates that:

The following information, to the extent known, shall be provided for each Excluded Person:

- a) The Full name and date of birth and all aliases;
- b) A physical description;
- c) The effective date the person's name was placed on the list;
- d) A photograph, if available;
- e) The person's occupation and his current home and business address; and
- f) Such other information as deemed necessary by the Administrator.

Similarly, the correct description of the information provided by gamblers for inclusion in the exclusion list comports with teachings of the two documents showing persons

excluded from gaming in New Jersey for passing bad checks previously cited by the Examiner. For example, the document for Mr. DeSimone includes the type of information noted above with respect to Illinois Gaming such as name, residence address, physical description and further includes information regarding the bad actions performed by Mr. DeSimone. The document for Mr. Kas-Mikha includes the same type of information as Mr. DeSimone.

As generally described in the Background Art section of the Specification, the problem to be solved was to quickly and efficiently determine whether a gambler presenting a check is an excluded gambler. (Page 2, lines 18-20.) As described, "there is only one process available to the casino that allows them the ability to review and compare each customers personal information against the information provided by the state gaming commission and this would be a manual identification at the point when a check is presented for cash at the cage." (Page 2, lines 21-24.) As further described, this was "typically accomplished by manually reviewing the information on the list, provided by the state, with the same information presented by the check writer, i.e., if the list requires a Social Security Number (SSN), then the casino will also require a SSN for comparison on the list." (Page 2, lines 27-30.)

As indicated above, MICR data was not included in the exclusion list prior to the Applicant's disclosure and the characterization in the Background Art section of the Specification of it being present in the exclusion list was incorrect. As described in the Background Art section of the Specification, the prior method for determining whether or not a gambler cashing a check is an excluded gambler was to compare information provided by the gambler with the information in the exclusion list (e.g., name, address, SSN, etc.). As MICR data was not included in the exclusion list, the comparison between the information provided by the gambler and the information included in the exclusion list entailed comparing name, address, SSN, driver license, etc., and did not entail a comparison of MICR data as MICR data was not included in the exclusion list.

The Applicant has submitted herewith a seven page document entitled "Executive Overview" which served as an invention disclosure for drafting the patent application. The copy of the Executive Overview provided herewith has a print date of October 20, 1999. As noted on page 1 of the Executive Overview, the objective of the invention is to provide a preventative tool "for excursion gambling boats to flag exclusion list (compulsive gamblers) check writers."

As noted on page 5 of the Executive Overview, the situation prior to the Applicant's invention was to provide an exclusion list which "contains the person's name, address, DL [drivers license], and SSN. In addition to the list, the excursion gambling boat will also receive a photo id and physical description of every person on the list." This description of the information included in the exclusion list as described in the Executive Overview comports with the Applicant's corrected Background Art section of the Specification, Illinois Gaming, and the two documents.

As further noted on page 5 of the Executive Overview, the situation prior to the Applicant's invention "involve[d] a visual inspection of the list for every check or credit card being presented at the cage for cash." As particularly noted on page 5, "The cashier must review every check presenters' DL (for cashing either personal or payroll checks) against a hard copy list of the names provided by the MGC [Missouri Gaming Commission]. The cashier will look for a match by name and DL on the list. If there is no match the cashier will process the check as they normally would." This description of the comparison process as described in the Executive Overview comports with the Applicant's corrected Background Art section of the Specification.

As noted on pages 3-4 of the Executive Overview, the solution provided by the Applicant in order to obtain the objective of the invention entails the inclusion of MICR data in the exclusion list. That is, the idea of including MICR data in a gambler exclusion list was the inventive contribution of the Applicant to solve the problem of quickly and efficiently determining whether a gambler presenting a check is an excluded gambler.

Thus, the Background Art section of the Specification should not have directly described the prior art exclusion lists as including MICR data. Likewise, the Background Art section of the Specification should not have described, either directly or indirectly, that MICR data received from a gambler is compared with MICR data contained in an exclusion list to determine whether the gambler is an excluded gambler. The Applicant has amended the Background Art section of the Specification to correctly recite that information typically included in an exclusion list (i.e., name, drivers license, SSN, etc.) is compared with like information received by a gambler to determine if the gambler is an excluded individual.

**3. The Claimed Invention Compared to the Specification and Templeton**

When the Background Art section of the Specification is read in its amended and corrected version, it is clear that the Background Art section of the Specification does not teach or suggest an exclusion list including MICR data or "at least one checking account identifier for each individual of the list of individuals" as posited by the Examiner with respect to point "a" of the Specification teachings. Likewise, the corrected version of the Background Art section of the Specification does not teach or suggest that the comparison process includes "comparing the checking account identifier associated with the individual presenting the check with the at least one checking account identifier for each individual of the list of individuals stored in the exclusion list" as posited by the Examiner with respect to point "e" of the Specification teachings.

As a result, the combination of the Specification (in its accurate, corrected version) and Templeton does not result in the claimed invention as neither reference teaches or suggests incorporating MICR data in a gambler exclusion list; obtaining the MICR data from a check being cashed by a gambler; and comparing the obtained MICR data with MICR data contained in the exclusion list to determine whether the gambler is an excluded gambler.

Reply to Office Action of December 3, 2004

Therefore, in view of foregoing amendments and remarks, the Applicant respectfully requests reconsideration and withdrawal of the rejection to the claims under 35 U.S.C. § 103(a) in view of the Specification and Templeton.

CONCLUSION

In summary, claims 10-11 meet the substantive requirements for patentability. The case is in appropriate condition for allowance. Accordingly, such action is respectfully requested.

If a telephone or video conference would expedite allowance or resolve any further questions, such a conference is invited at the convenience of the Examiner.

Respectfully submitted,  
CHERYL LANIER et al.

By  
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Date: February 10, 2005

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Encl. 7-page Executive Overview



## Executive Overview

**COPY**

### Product/Project Information

Project Name:

Exclusion List

ITSS Project Code:

ASAP

Required Online Date:

Provide preventative tool(s) for excursion gambling boats to flag exclusion list (compulsive gamblers) check writers.

Product/Project Team:

	<u>Name:</u>	<u>Extension:</u>
<b>Product Manager:</b>	Cheryl Lanier Melanie Schmutz-Nugent	x 7732 x 7924
<b>ITSS:</b>	Mario Manfre Kate Fitzgerald Chris Schmid	x 6432 x 6422 x 6490
<b>Sales &amp; Service:</b>	Jim Sullivan Diana Olsen	
<b>Operations Houston:</b>	Ed Chambers	x 7389
<b>Operations Denver:</b>	Susan Roser	x 5995
<b>Risk:</b>	Ryan Hagerty	x 7807
<b>Marketing:</b>	Michelle Stone	x 7890

#### Plans & Analysis:

**Sponsor (Requesting Party):** Name: Larry Davis  
Title: Vice President  
Dept./District/Co.: Global Cash Access  
Phone Number: (800) 884-3711 vm 8830

#### Technical Specification Location:

### Cost/Benefit Analysis

<b>Estimated Benefit:</b> <i>(Indicate Revenue, Retention, Warranty Savings, Operational Expense Reduction, etc.)</i>	<b>RETENTION</b>	<b>\$ 5,712,000</b>	<b>\$ 5,712,000</b>
<b>Scenario 1:</b> <i>(see technical Information for details)</i>	<b>1999</b>	<b>2000</b>	<b>Comments</b>
<b>Estimated Cost of POS Development:</b>	\$	\$	Estimated Effort: MD
<b>Estimated Cost of ITSS Development:</b>			
Authorization	\$ 1,050	\$	Estimated Effort: 14 MD
Data Comm	\$	\$	Estimated Effort: MD
Coverage	\$ 1,050	\$	Estimated Effort: 14 MD
<b>Estimated Cost of ITSS Software Support (12 mos.):</b>	\$	\$	Estimated Effort: MD
<b>Estimated Cost of ITSS Operations Support (12 mos.):</b>	\$	\$	Estimated Effort: MD
<b>Estimated Cost of TeleCheck Operations Support (12 mos.):</b>	\$	\$	FTE's:
<b>Estimated Cost of Risk Scorecard Development:</b>	\$	\$	Estimated Effort: MD
<b>Estimated Cost of Marketing:</b>	\$	\$	
<b>Additional Cost (Specify):</b>	\$	\$	

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**Net:** \$ 2,100 \$

**Was benefit included in 1999 Plan? (Y/N):**

<u>Scenario 2: (see technical Information for details)</u>	<u>1999</u>	<u>2000</u>	<u>Comments</u>
<b>Estimated Cost of POS Development:</b>	\$	\$	Estimated Effort: MD
<b>Estimated Cost of ITSS Development:</b>			
Authorization	\$	\$	Estimated Effort: MD
Data Comm	\$	\$	Estimated Effort: MD
Coverage	\$	\$	Estimated Effort: MD
<b>Estimated Cost of ITSS Software Support (12 mos.):</b>	\$	\$	Estimated Effort: MD
<b>Estimated Cost of ITSS Operations Support (12 mos.):</b>	\$	\$	Estimated Effort: MD
<b>Estimated Cost of TeleCheck Operations Support (12 mos.):</b>	\$	\$	FTE's:
<b>Estimated Cost of Risk Scorecard Development:</b>	\$	\$	Estimated Effort: MD
<b>Estimated Cost of Marketing:</b>	\$	\$	
<b>Additional Cost (Specify):</b>	\$	\$	

**Net:** \$ \$

**Was benefit included in 1999 Plan? (Y/N):**

<u>Scenario 3: (see technical Information for details)</u>	<u>1999</u>	<u>2000</u>	<u>Comments</u>
<b>Estimated Cost of POS Development:</b>	\$	\$	Estimated Effort: MD
<b>Estimated Cost of ITSS Development:</b>			
Authorization	\$	\$	Estimated Effort: MD
Data Comm	\$	\$	Estimated Effort: MD
Coverage	\$	\$	Estimated Effort: MD
<b>Estimated Cost of ITSS Software Support (12 mos.):</b>	\$	\$	Estimated Effort: MD
<b>Estimated Cost of ITSS Operations Support (12 mos.):</b>	\$	\$	Estimated Effort: MD
<b>Estimated Cost of TeleCheck Operations Support (12 mos.):</b>	\$	\$	FTE's:
<b>Estimated Cost of Risk Scorecard Development:</b>	\$	\$	Estimated Effort: MD
<b>Estimated Cost of Marketing:</b>	\$	\$	
<b>Additional Cost (Specify):</b>	\$	\$	

**Net:** \$ \$

**Was benefit included in 1999 Plan? (Y/N):**

### Overview

**Target Market/Customer:** Casinos in Missouri (Flamingo's, Harrah's, Player's) have made the request for assistance of electronically identifying those check writers on the Missouri Exclusion List.

**Why the project has been requested:** Penalties the casinos can incur by knowingly allowing a person on the premises can range anywhere from \$25K or higher in fines, and ultimately closure of the casino if the offense happens more than twice.

**What we hope to accomplish:** To maintain the current account base and increase the market share of the excursion gambling boats in Missouri by providing a tool to the casinos of flagging disassociated check writers.

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## Executive Overview

### **Franchise/Area Restrictions:**

Available for Missouri Gaming boats only.

### **Problem Statements:**

1. The potential liability to the consumer, or their family, if the system fails and the consumer gambles away a significant amount of money.
2. Even though MO has the consumer sign a release, this may not protect us from the claims from their relatives.
3. The system has to be as accurate and reliable as possible.
4. The MO Gaming Commission has indicated they are willing to require the MICR number of the consumer (currently they ask for the DL, SSN and DOB) but will probably not go back and ask for the MICR from the people already on the list. As per the controllers of Stations and Harrah's in Kansas City, they had indicated the list contains roughly 750 to 900 names.
5. The possibility of the consumer changing bank accounts.
6. Turning down the co-signer of an account on a MICR number reported as belonging to a consumer of the list.
7. Exposure if the consumer is arrested (based on the TeleCheck response) and is not on the list.
8. Question of whether or not TeleCheck wants to be included on the release required of the consumer by the gaming commission. Notifies the consumer up front that TeleCheck is released, but also puts TeleCheck in the spotlight if their lawyers want to sue.
9. Missouri Exclusion List is for life. Once on the list the MGC will not allow anyone to be taken off. This puts Check Writer Services in an awkward position when the check writer wants their name to be removed.
10. Today, TeleCheck doesn't have the ability to decline a check writer by state. Immediate solution would be to a) decline all casinos based on the SIC code or area, or b) create a new Service option, or SIC that will be designed to identify a subscriber number as being an "Exclusion List account" for declining those on the list.
11. Possibility of the cashier referring a check writer to TeleCheck for a decline based on the Exclusion List. Are there any privacy issues for disclosing information to casinos or check writers?
12. 95% of Gaming revenue comes from the Missouri properties. Casinos are demanding a solution. Revenue and market share will directly be affected if casino properties go elsewhere for a solution.
13. Method in which TeleCheck will receive the Exclusion List. Need to determine if this will come directly from the MGC or from an account. This brings up the issue of the "age" of the list if coming from an account. As well as the "medium" it is delivered in; hard copy? file transmission? And how it will be added to the data base.

\*See the Technical Information listed below for additional areas of concern (Cons).

### **Competitive Information:**

Equifax is claiming to have a product available, but neither TeleCheck nor the merchants have heard or seen any specific information.

## Technical Information

### Scenario 1: Use Sub 26 - "Quickest" Possible Fix

Use the existing Sub 26 MICR data base to house the Exclusion List ID's field (Gamblers Anonymous). This would entail from IT:

- (a) Sub 01 would need to be able to recognize the new field.
- (b) Create a new tag to identify a hit against the data base.
- (c) The gateway would require a change to receive this tag and forward it onto the terminals.
- (d) Add validations to the MICR database to prevent any editing (removal) of the field/screen.

Additions from the list to the MICR data base would require entering the BN into the MICR data base and putting a "Y" in the Gamblers Anonymous field.

### Pros:

- ◆ This would require minimal effort and coding from IT to accomplish. And could be available to the casinos relatively quickly. For the Authorizations piece, it would only take a couple of man weeks, and for testing a couple more. As for the gateway and Data Comm, it would be a priority issue.

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- ◆ The cashier would receive a response that indicates the person is on the list, (i.e.; "Exclusion") includes the check writers last name.

### Cons:

- ❖ This requires the MICR number to be entered for every person placed on the list.
- ❖ Need to be able to provide this on a state by state basis, as 1) not all states will use this response, and 2) sharing of the information from state to state can not happen. This requires identifying Missouri casinos.
- ❖ There is currently no procedure in place by the MGC to "update" the Exclusion List with new information on existing list , i.e.; new BN information.

### Scenario 2: Casino Players Cards

Use the casino's Players Card (PC) as a form of ID and link this to the Exclusion List (DL data base) provided by the MGC. Once the excursion gambling boats are allowed "continuous boarding" they will be required to swipe (record) every PC at the time of entry (due to the "legal limits" time frame allowed) and can also require the PC for check cashing privileges. The river boat will require an application to be completed for every PC issued, allowing a thorough search of the Exclusion List.

### Pros:

- ◆ The river boat will maintain their own data base on every card issued, including doing updates for all subsequent Exclusion List updates.
- ◆ They will use the PC list as their primary and TeleCheck as a backup.

### Cons:

- ❖ Requires creating a new data base to house the Exclusion List (DL) info to hit against.
- ❖ Requires IT coding to identify and tag the hit against the data base.
- ❖ Requires the gateway to receive and transmit this tag out to the POS.
- ❖ Contingent upon *when* "continuous boarding" starts.

### Scenario 3: Creating a Data Base – Long Term

Create a new data base separate from the Sub 02 system that will *not* automatically purge and will have the ability to tag entries for certain programs, i.e.; Exclusion List.

**DL:** The easiest (most accepted) form of ID to ask for

**SSN:** The best form of ID since this is probably the most "constant" ID today. The hardest to ask for, and most resistant for check presenters to provide.

### Pros:

- ◆ Allows flexibility for if/when future states adopt the Exclusion List idea.

### Cons:

- ❖ Very time consuming for IT to create, high probability this wouldn't happen until well into 2000, possibly 2001.

## Marketing Strategy

### **Market Research:**

Discussions with the Missouri Gaming Commission (Hugh Jewitt)  
Discussions with Harrah's and Station's casinos (Melanie Schmutz-Nugent)

### **Overview:**

Effective December 30, 1996, the Missouri Gaming Commission (MGC) has passed a state regulation, requiring its excursion gambling boat licensees to comply with the provisions contained in **11 CSR 45-17** pertaining to **Voluntary Exclusions**. The provision was put in place to assist the problem gambler by allowing them a means to notify the commission that they no longer intended to visit the excursion gambling boats in Missouri and are seeking help for their gambling problem. Each person placed on the list is done so by their own volition and will remain on the list for the rest of their life. These people are aware that any attempt to visit the excursion gambling boats will result in being charged with a criminal complaint for trespassing if they are found on such boats. The provision outlines the requirements and process for the Missouri

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excursion gambling boats to follow for identifying and prosecuting those people on the list who attempt to gain access. Failure for the excursion gambling boat to identify those on the list will result in a fine and/or closure of the establishment.

Other states are either in the process of adopting or looking into development of a similar program. The Account Managers are continually being asked to by all their accounts to provide a process to restrict check cashing at their casinos from problem gamblers.

### **Current Situation:**

- **Placement on the Voluntary Exclusion List**

Persons requesting to be added to the Voluntary Exclusion List are required to complete an application including;

- 1) a personal information and physical description sheet and recent photograph,
- 2) filling out a *Disassociated Persons Questionnaire* (used to identify the persons ability to make a sound a thought out decision and that they are completely aware of what they are doing by being added to the list),
- 3) signing a *Waiver/Release* form,
- 4) signing an *Authorization and Request to Release Information* form,
- 5) signing an *Application Verification* form

This is all conducted in the presence of a MGC agent, who will review the application, verify the applicants' signatures and process the request. The applicant is then notified, right then, that they are on the list and will be held responsible, and charged, for criminal trespass if found on an excursion gambling boat. All though the list is sent out approximately once a month, the applicant is considered to be "on the list" even though an updated version would not have been sent out. and that the list will take a few days to get to the casinos. However, the applicant

- **The Missouri Gaming Commission**

The MGC provides an "updated" hardcopy of the list to every excursion gambling boat, approximately once a month. The list contains the names of those recently added to the list, as well as those who were previously on the list. Additions to the list are merely added to the bottom and are not in any particular order, other than the order in which the names were added. The list contains the persons name, address, DL, and SSN. In addition to the list, the excursion gambling boat will also receive a photo id and physical description of every person on the list. This is typically kept in the Security office and not in the cage.

- **The Missouri Excursion Gaming Boats**

Currently the steps the involve a visual inspection of the list for every check or credit card being presented at the cage for cash. \*NOTE: Credit cards can provide cash advances on the gaming floor through automated machines and so are not the main focus at the cage. Very few people go the cage for credit card cash advances.

- 1) The cashier must review every check presenters' DL (for cashing either personal or payroll checks) against a hard copy list of names provided by the MGC. The cashier will look for a match by name and DL on the list. If there is no match the cashier will process the check as they normally would.
- 2) If there is a match, the cashier will notify the security office, who will conduct a visual of the person, based on the information and picture provided by the MGC.
- 3) If security deems the person and picture a match, they are required to call the police to have the check writer arrested for criminal trespass.

### **Product Branding:**

To be determined by Strategic Marketing

### **Promotions/Advertising:**

To be determined by Strategic Marketing

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### ***Sales & Service Information***

**Pricing:** As a strategic initiative, the emphasis is on retention of accounts and not revenue increase through a per transaction cost. Global Cash Access has indicated there will not be an additional charge for this product.

**Compensation Package:** To be determined

**Installation/Training:** To be completed by Global Cash Access Account Managers.

**Contracts/Addendum's:** To be determined. May require additional addenda and/or waiver statements for both the merchants and the consumer, releasing TeleCheck from any liability due to the list, it's accuracy, or

### ***Operations/Support Information***

**Authorizations:**

**Check Writer Services:** Approved legal verbiage for response

**Merchant Services:**

**Check Processing:**

**Subscriber Services/Billing:**

**Collections:**

### ***Approvals***

**Requested approval date:**

	<b>Planning</b>	<b>&amp;</b>		<b>Development</b>	
	<b>Executive</b>	<b>Analysis</b>	<b>Legal</b>	<b>ITSS</b>	<b>Project</b>
					<b>Management</b>
					<b>Sponsor</b>

**Date Submitted:**

**Approval dates:**

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**FIGURE 4: Flow of the transaction as it obtains the required data and returns the appropriate response.**

